



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,654	03/12/2001	Hongyong Zhang	07977/097003/US3176D1D1	1999

7590 07/17/2002  
SCOTT C. HARRIS  
Fish & Richardson P.C.  
Suite 500  
4350 La Jolla Village Drive  
San Diego, CA 92122

EXAMINER

ABRAHAM, FETSUM

ART UNIT	PAPER NUMBER
----------	--------------

2826

DATE MAILED: 07/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/804,654

Applicant(s)

ZHANG, HONGYONG

Examiner

Fetsum Abraham

Art Unit

2826

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 10 May 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-17 is/are allowed.
- 6) ☒ Claim(s) 2-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 2826

**Claims rejection**

The following non-statutory double patenting rejection is based on a judicially created doctrine grounded in public policy so as to prevent unjustified or improper timewise extension of the right to exclude granted by a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968).

**Claims 2-9 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-5 of U.S. patent No. 5,922,125.**

As a matter of discussion, claims 2-9 are addressed by claims 1,2,14,40 of the patent. The claimed second region is a stopper of the parallel crystallization in claims 6,8 is also addressed by claims 14,40. This is because crystallization in lateral position must have a stopping point and can not go indefinitely for unlimited lateral distance within the island. Therefore, the region where the lateral expansion stops is the stopping region. Beyond the claims, the figure in the front page as described by the abstract also includes a substrate with regions (101, 102) as crystallization start points and regions (108,110) as crystallization stop points. Therefore, the claimed method of making the structure is fully disclosed by the patent.

A timely filed terminal disclaimer in compliance with 37 C.F.R. §1.321(b) would overcome the non-statutory double patenting rejection provided the conflicting patent is shown to be commonly owned with this application. See 37 C.F.R § 11.78(d).

**Claims 10-17 have been allowed.**

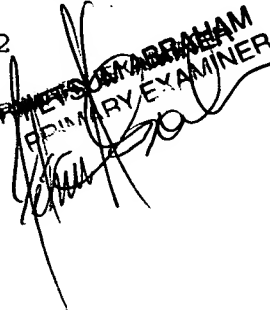
Art Unit: 2826

Any inquiry concerning this communication should be directed to Fetsum Abraham at telephone number (703) 305,3793, or by E-mail at *fetsum.abraham@uspto.gov*.

Any inquiry of a general nature or relating to the status of this application should be directed to the *SPE of AU:2826* at (703)308-6601, or the *Group receptionist* at (703) 308-0956.

Fetsum Abraham

7/8/02

  
FETSUM ABRAHAM  
PRIMARY EXAMINER